

**Consent Decree 7:16-cv-00462-GEC**  
**United States, et. al. vs. Southern Coal Corporation & Affiliates**  
**Quarterly Report for period ending June 30, 2018**  
**On behalf of Southern Coal Corporation & Affiliates**

As per the Consent Decree between the United States of America, the State of Alabama, the Attorney General of Alabama, Alabama Department of Environmental Management, the Commonwealth of Kentucky, Energy and Environment Cabinet, the State of Tennessee, the Attorney General and Reporter of Tennessee, and the Commonwealth of Virginia, and Southern Coal Corporation, Justice Coal of Alabama, LLC, A & G Coal Corporation, Four Star Resources LLC, Infinity Energy, Inc., Kentucky Fuel Corporation, Sequoia Energy, LLC, Virginia Fuel Corporation, National Coal, LLC, Premium Coal Company, Incorporated, S and H Mining Inc., Airway Resources, L.L.C., Baden Reclamation Company, Black River Coal, LLC, Chestnut Land Holdings, LLC, Meg-Lynn Land Company, Inc., Nine Mile Mining, Inc., Cane Patch Mining Co., Inc., Bluestone Resources, Inc., Dynamic Energy, Inc., Greenthorn, LLC, Justice Highwall Mining Inc., National Resources, Inc., Nufac Mining Company, Inc., Pay Car Mining, Inc., Second Sterling Corp., and Newgate Development of Beckley LLC, the following quarterly report is provided (capitalized terms herein shall have the meanings ascribed to them in the Consent Decree):

**A. Information Regarding Any CWA Violation**

(i) Summary of Effluent Limit Violations for 3rd quarter 2018

- There were eighty-two (82) Effluent Limit Violations on the associated NPDES permits for the facilities. These violations consisted of fifty-one (51) Daily Violations and thirty-one (31) Monthly Violations. Thirty-eight (38) of the Daily Violations were in-compliance in under 72 hours and did not result in category violations. Seven (7) of the Daily Violations were Category 1 violations, and six (6) were Category 2 violations. Nineteen (19) of the Monthly Violations were Category 1 violations, and there were twelve (12) Category 2 violations. See **Table 1**.
- There were twenty-five (25) Outlets with consecutive Effluent Limit Violations of the same pollutant parameter. See **Table 1**.
- There were ten (10) Outlets with Persistent Noncompliance Issues (three (3) or more Effluent Limit Violations of the same parameter in the preceding 12-month period). See **Table 2**.

(ii) Summary of Failure to Sample Violations for 3rd quarter 2018

- There were no Failure to Sample Events that occurred in 3rd quarter 2018.

(iii) Summary of Stipulated Penalties

- The total amount of Stipulated Penalties owed for the period is two hundred and twenty thousand and five hundred dollars (\$220,500.00). See **Table 1**.

Stipulated Penalty Summary - 3rd Quarter 2018							
Type	Total #	Total # of Same Consecutive Exceedance	Total # of 3+ of Same Exceedance in Preceding 12 Month Period	Total # of Category 1 Violations	Total # of Category 2 Violations	Associated Stipulated Penalty	Additional Penalty for Persistent Non-Compliance
Daily Violation	51	13	13	7	6	\$ 38,500.00	\$ 13,000.00
Monthly Violation	31	12	17	19	12	\$ 111,000.00	\$ 34,000.00
Quarterly Violation						\$ -	\$ -
Failure to Sample			N/A			\$ -	N/A
Total Violations	82	25	30	26	18	\$ 196,500.00	
Non-Compliance with Consent Decree 3rd Quarter 2018							
Date Range	Start Date	End Date	# of Days	Associated Stipulated Penalty	Details of Non-Compliance		
1st - 14th day	07/30/18	08/02/18	4	\$ 4,000.00	Laboratories withheld data from database. Per section VII, paragraph 49 of the Consent Decree all laboratories must provide electronic transmittal of all DMR Sample results to the Database within 48 hours of completion of analysis.		
1st - 14th day	09/12/18	09/17/18	6	\$ 6,000.00			
1st - 14th day	07/15/18	07/15/18	1	\$ 1,000.00	Electronic Exceedance Notification not sent immediately following DMR Sample receipt within 48 hours of completion of analysis. Per Section VII, paragraph 49 of Consent Decree.		
1st - 14th day	07/29/18	07/29/18	1	\$ 1,000.00			
1st - 14th day	08/09/18	08/20/18	12	\$ 12,000.00			
Total Non-Compliance with Consent Decree			24	\$ 24,000.00			
Total Stipulated Penalties 3rd Quarter 2018:						\$	220,500.00

\*For the purposes of this document, a blank cell represents 0 violations.

Table 1.

*Outlets with Persistent Non-Compliance - 3rd Quarter 2018*

NPDES Permit	SMCRA Permit	Outlet	Sample Date	Notification Date	Parameter	Limit	Result	Type	Category
VA0082073	1702073	M-001A	07/05/18	07/19/18	Total Manganese	4.1200	4.0000	Daily	N/A
VA0082073	1702073	M-001A	07/17/18	07/24/18	Total Manganese	4.5200	4.0000	Daily	1
VA0082073	1702073	M-001A	07/25/18	07/31/18	Total Manganese	4.4900	4.0000	Daily	N/A
VA0082073	1702073	M-001A	07/26/18	07/31/18	Total Manganese	4.1700	4.0000	Daily	1
VA0082073	1702073	M-001A	08/02/18	08/21/18	Total Manganese	4.1300	4.0000	Daily	N/A

*Exceedances from Preceding 12 Months*

VA0082073	1702073	M-001A	06/18/18	07/26/18	Total Manganese	4.0000	5.1000	Daily	1
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NPDES Permit	SMCRA Permit	Outlet	Sample Date	Notification Date	Parameter	Limit	Result	Type	Category
WV1006304	S007282	005	07/12/18	08/06/18	Total Selenium	7.4600	4.7000	Monthly	1
WV1006304	S007282	005	08/18/18	09/11/18	Total Selenium	6.4200	4.7000	Monthly	2
WV1006304	S007282	005	09/18/18	10/10/18	Total Selenium	5.9550	4.7000	Monthly	2

NPDES Permit	SMCRA Permit	Outlet	Sample Date	Notification Date	Parameter	Limit	Result	Type	Category
WV1006304	S007282	006	07/12/18	08/06/18	Total Selenium	7.1767	4.7000	Monthly	1
WV1006304	S007282	006	08/18/18	09/11/18	Total Selenium	5.6225	4.7000	Monthly	2
WV1006304	S007282	006	09/18/18	10/10/18	Total Selenium	6.0500	4.7000	Monthly	2

NPDES Permit	SMCRA Permit	Outlet	Sample Date	Notification Date	Parameter	Limit	Result	Type	Category
WV1006304	S007282	007	07/02/18	07/06/18	Total Selenium	13.9200	8.2000	Daily	N/A
WV1006304	S007282	007	07/09/18	07/10/18	Total Selenium	11.7300	8.2000	Daily	1
WV1006304	S007282	007	07/12/18	07/16/18	Total Selenium	11.6300	8.2000	Daily	2
WV1006304	S007282	007	08/01/18	08/03/18	Total Selenium	10.1600	8.2000	Daily	N/A
WV1006304	S007282	007	08/13/18	08/15/18	Total Selenium	14.2300	8.2000	Daily	2
WV1006304	S007282	007	08/16/18	08/17/18	Total Selenium	10.9000	8.2000	Daily	2
WV1006304	S007282	007	09/04/18	09/05/18	Total Selenium	11.7500	8.2000	Daily	N/A
WV1006304	S007282	007	09/14/18	09/17/18	Total Selenium	12.5200	8.2000	Daily	N/A
WV1006304	S007282	007	09/18/18	09/20/18	Total Selenium	13.0600	8.2000	Daily	1
WV1006304	S007282	007	09/20/18	09/21/18	Total Selenium	8.4400	8.2000	Daily	2
WV1006304	S007282	007	07/18/18	08/06/18	Total Selenium	8.7240	4.7000	Monthly	1
WV1006304	S007282	007	08/18/18	09/11/18	Total Selenium	10.1300	4.7000	Monthly	2
WV1006304	S007282	007	09/20/18	10/10/18	Total Selenium	10.4460	4.7000	Monthly	2

NPDES Permit	SMCRA Permit	Outlet	Sample Date	Notification Date	Parameter	Limit	Result	Type	Category
WV1006304	S007282	008	07/02/18	07/06/18	Total Selenium	14.0200	8.2000	Daily	N/A
WV1006304	S007282	008	07/12/18	07/16/18	Total Selenium	12.2200	8.2000	Daily	N/A
WV1006304	S007282	008	08/01/18	08/03/18	Total Selenium	12.4100	8.2000	Daily	N/A
WV1006304	S007282	008	08/13/18	08/15/18	Total Selenium	11.5400	8.2000	Daily	2
WV1006304	S007282	008	08/16/18	08/17/18	Total Selenium	9.6400	8.2000	Daily	2
WV1006304	S007282	008	09/04/18	09/05/18	Total Selenium	11.9300	8.2000	Daily	N/A
WV1006304	S007282	008	09/14/18	09/17/18	Total Selenium	11.3300	8.2000	Daily	N/A
WV1006304	S007282	008	09/18/18	09/20/18	Total Selenium	10.4600	8.2000	Daily	1
WV1006304	S007282	008	07/18/18	08/06/18	Total Selenium	7.5900	4.7000	Monthly	1
WV1006304	S007282	008	08/18/18	09/11/18	Total Selenium	9.8575	4.7000	Monthly	2
WV1006304	S007282	008	09/20/18	10/10/18	Total Selenium	9.5600	4.7000	Monthly	2

Outlets with Persistent Non-Compliance - 3rd Quarter 2018									
NPDES Permit	SMCRA Permit	Outlet	Sample Date	Notification Date	Parameter	Limit	Result	Type	Category
WV1018698	U401398	001	09/26/18	10/10/18	Total Aluminum	0.4863	0.4300	Monthly	1
Exceedances from Preceding 12 Months									
WV1018698	U401398	001	05/30/18	06/14/18	Total Aluminum	0.4300	1.5114	Monthly	1
WV1018698	U401398	001	06/26/18	07/18/18	Total Aluminum	0.4300	2.4910	Monthly	2
WV1018698	U401398	001	02/27/18	03/08/18	Total Aluminum	0.4300	1.2302	Monthly	1
WV1018698	U401398	001	03/22/18	04/09/18	Total Aluminum	0.4300	0.9672	Monthly	2
NPDES Permit	SMCRA Permit	Outlet	Sample Date	Notification Date	Parameter	Limit	Result	Type	Category
WV1018698	U401398	002	07/20/18	07/24/18	Total Aluminum	0.8360	0.7500	Daily	N/A
WV1018698	U401398	002	08/22/18	08/23/18	Total Aluminum	1.3320	0.7500	Daily	N/A
WV1018698	U401398	002	09/06/18	09/07/18	Total Aluminum	2.5450	0.7500	Daily	N/A
WV1018698	U401398	002	09/10/18	09/12/18	Total Aluminum	0.8690	0.7500	Daily	1
Exceedances from Preceding 12 Months									
WV1018698	U401398	002	06/26/18	06/28/18	Total Aluminum	0.7500	1.9740	Daily	1
NPDES Permit	SMCRA Permit	Outlet	Sample Date	Notification Date	Parameter	Limit	Result	Type	Category
WV1018965	S400900	010	07/30/18	08/06/18	Total Aluminum	0.0990	0.0800	Monthly	2
WV1018965	S400900	010	08/29/18	09/11/18	Total Aluminum	0.1086	0.0800	Monthly	2
WV1018965	S400900	010	09/30/18	10/10/18	Total Aluminum	0.2343	0.0800	Monthly	2
Exceedances from Preceding 12 Months									
WV1018965	S400900	010	06/29/18	07/18/18	Total Aluminum	0.0800	0.0885	Monthly	1
NPDES Permit	SMCRA Permit	Outlet	Sample Date	Notification Date	Parameter	Limit	Result	Type	Category
WV1024159	U402790, U402890	003	07/20/18	07/24/18	Total Aluminum	0.8360	0.7500	Daily	N/A
WV1024159	U402790, U402890	003	08/22/18	08/23/18	Total Aluminum	1.3320	0.7500	Daily	N/A
WV1024159	U402790, U402890	003	09/06/18	09/07/18	Total Aluminum	2.5450	0.7500	Daily	N/A
WV1024159	U402790, U402890	003	09/10/18	09/12/18	Total Aluminum	0.8620	0.7500	Daily	1
Exceedances from Preceding 12 Months									
WV1024159	U402790, U402890	003	06/26/18	06/28/18	Total Aluminum	0.7500	1.9740	Daily	N/A
NPDES Permit	SMCRA Permit	Outlet	Sample Date	Notification Date	Parameter	Limit	Result	Type	Category
WV1026488	S301411	007	09/30/18	10/10/18	Total Aluminum	0.1587	0.0800	Monthly	1
Exceedances from Preceding 12 Months									
WV1026488	S301411	007	01/30/18	02/08/18	Total Aluminum	0.0800	0.1375	Monthly	1
WV1026488	S301411	007	02/21/18	03/08/18	Total Aluminum	0.0800	0.1680	Monthly	2
WV1026488	S301411	007	03/29/18	04/09/18	Total Aluminum	0.0800	0.0870	Monthly	2
WV1026488	S301411	007	10/27/17	11/03/17	Total Aluminum	0.6735	0.0800	Monthly	1

Table 2.

(iv) Summary of Additional CWA/SMCRA Violations

- See **Attachment A.** For more details.

(v) Summary of Remedial Steps Taken or Planned for Violations in (i) and (ii) above

During the period, the following remedial actions were initiated to address the Effluent Limit Violations identified above:

- Daily monitoring began the date of the Violation notification.
- The pond associated with the Outlet was cleaned.
- Treatment was applied as needed.
- The Outlet was brought back into compliance.
- See **Attachment B.** and **Attachment C.** for details specific to each effluent limit violation.

During the period, the following remedial actions were initiated to address the Failure to Sample Violations identified above:

- There were no Failure to Sample Events that occurred in 3rd quarter 2018.

During the period, the following remedial actions were initiated to address the Persistent Non-compliances identified above:

- Daily monitoring began the date of the Violation notification.
- In process of consulting with CWA compliance and treatment systems expert.
- See **Table 2.** For details specific to each persistent non-compliance.

During the period, the following remedial actions were initiated to address the CWA/SMCRA Violations:

- See **Attachment A.** for specific violations and remedial actions taken.

(vi) Copy of the Violation Database Entries for the relevant quarter

- See **Attachment A.** for 3rd quarter 2018 CWA/SMCRA Violations
- See **Attachment B.** for 3rd quarter 2018 Effluent Limit Violations
- See **Attachment C.** for responses to 3rd quarter 2018 Effluent Limit Violations
- See **Attachment D.** for 09/30/17 – 09/30/18 Effluent Limit and Failure to Sample Violations
- Copies of All Violation Documents (CWA/SMCRA, Effluent Limit, and Failure to Sample) and Completed Environmental Audits and Treatment System Audits are located on the publicly available database for Southern Coal Corporation.
  - [www.southerncoalcorporation.droppages.com](http://www.southerncoalcorporation.droppages.com)

**B. Summary of Incomplete Audit Responses**

- No Incomplete Audit Responses occurred 3rd quarter 2018.
- The EMS Audit Response and Action Plan was completed and submitted with the 4th quarter 2017 quarterly report. EPA's comments on EMS Audit Response and Action Plan have not yet been received. Once EPA comments are received, a response will be submitted within 30 days from receipt date.

**C. Documentation of Training Sessions Pursuant to Paragraph 60**

- Annual Consent Decree Training & Annual EMS Procedure Training was delayed due to personnel changes and will be conducted in 4<sup>th</sup> quarter 2018.

**D. Certification of Material Conformance**

I hereby certify that activities at Southern Coal Corporation and Affiliates facilities are in material conformance with the elements of the approved EMS manual relating to the Applicable Law addressed by the Consent Decree.

**E. Status of Consent Decree Implementation**

See **Attachment E.** SCC Consent Decree Obligation Tracking

#### **F. Other Non-Compliances with This Consent Decree**

- There were two (5) instances of Non-Compliance with Consent Decree that occurred for a combined total of twenty-four (24) days during 3rd quarter 2018. Please see **Table 1** for the associated stipulated penalties. Effluent Water Data was not submitted electronically by contracted laboratories to Southern Coal Corporation within 48 hours of completion of analysis during the following dates:
  - July 30, 2018 – August 2, 2018 (4 Days of Non-Compliance with Consent Decree in 1<sup>st</sup> -14<sup>th</sup> day penalty range)
  - September 12, 2018 – September 17, 2018 (6 Days of Non-Compliance with Consent Decree in 1<sup>st</sup> -14<sup>th</sup> day penalty range)
- Electronic Exceedance Notification was not sent immediately following DMR Sample receipt within 48 hours of completion of analysis during the following dates:
  - July 15, 2018 – July 15, 2018 (1 Day of Non-Compliance with Consent Decree in 1<sup>st</sup> -14<sup>th</sup> day penalty range)
  - July 29, 2018 – July 29, 2018 (1 Day of Non-Compliance with Consent Decree in 1<sup>st</sup> -14<sup>th</sup> day penalty range)
  - August 9, 2018 – August 20, 2018 (12 Days of Non-Compliance with Consent Decree in 1<sup>st</sup> -14<sup>th</sup> day penalty range)
- No Instances of Non-Compliance with Reporting Requirements in 3<sup>rd</sup> quarter 2018.
- There were no instances of Non-Compliance with Outlet Inspection Requirements in 3<sup>rd</sup> quarter 2018.

#### **G. Decree Violation Subject to an Unresolved Force Majeure Claim**

*Not applicable.*

**H. Certification Pursuant to Paragraph 79**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



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Mark Wooten  
Chief Engineer

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10/31/2018

Date

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10/31/2018

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Date

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Bill Johnson  
Chief Engineer